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SUBJECT: COURT FINES BUSINESSMAN FOR ILLEGAL EXPORTS OF MILITARY
GOODS TO IRAQ

REF: DUESSELDORF 4

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¶1. (U) After a month-long trial (reftel), the Essen Regional Court on January 25 found Aso Salih Koyie guilty of having violated section 34 of the German Foreign Trade and Payments Law (restrictions on the export of military goods) through the 2004 delivery to Iraq of 78 power generating sets formerly used by the German Army. The Iraqi-born businessman was sentenced to a 3,500 fine: 2,400 for tax evasion (imposed earlier by the German tax authorities for this deal), and 1,100 for violating export control restrictions. The court declined prosecutor's request for a suspended prison sentence of two years. The defense pleaded for acquittal.

¶2. (U) The presiding judge called the sentence a "moderate fine," going to great lengths to list extenuating circumstances that included: the defendant's lack of a criminal record; his stated intention to use the goods solely for humanitarian purposes; and that the material did not comprise weapons systems, but "obsolete technical support equipment." The main reason for the lenient sentence, however, was that German customs officials had not been vigilant in stopping the exports, the judge stated. For example, after the defendant had difficulty obtaining the necessary papers at one customs office in Dueren, North Rhine-Westphalia, he went to another in Essen, which provided the necessary stamp. The state prosecutor also criticized this in his concluding statement. (Note: While the defendant managed to obtain a stamp from customs, he did not receive a license from BAFA, the Bundesamt fuer Wirtschaft Ausfuhrkontrolle. End Note).

¶3. (SBU) After the trial, the presiding judge explained to us that the German legal system must take the income situation of a defendant into account if s/he is fined by a court. The low fine in this case was therefore also due to the defendant's allegedly current poor economic situation, which also caused the court to allow the defendant to pay the fine in monthly installments of 100. (Note: He drove away in a late model Volvo and members of his family present in the courtroom were dressed expensively. End Note.) The defense lawyer told us his client was pleased with the outcome, and that he would not appeal the court's decision. The public prosecutor was not available for comment.

¶4. (U) This cable was coordinated with Embassy Berlin.

BOYSE